

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

January 25, 2006

01:07 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Co-Chair
Representative Ralph Samuels, Co-Chair
Representative Carl Gatto
Representative Gabrielle LeDoux
Representative Kurt Olson
Representative Paul Seaton
Representative Harry Crawford

MEMBERS ABSENT

Representative Jim Elkins (excused)
Representative Mary Kapsner

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Commissioner, Department of Natural Resources

Michael Menge - Juneau

- CONFIRMATION(S) ADVANCED

Big Game Commercial Services Board

Paul Johnson - Elfin Cove
Ted Spraker - Soldotna
Betty Jo Schmitz - North Pole
Colin Brown - Galena
Ralph Anderson - Dillingham
Roy Ashenfelter - Nome
Richard Rohrer - Kodiak

- CONFIRMATION(S) ADVANCED

PREVIOUS COMMITTEE ACTION

No previous action to report

WITNESS REGISTER

MICHAEL MENGE, Commissioner
Department of Natural Resources
Juneau, Alaska
POSITION STATEMENT: Testified as appointee.

PAUL JOHNSON, Chair
Big Game Commercial Services Board
Elfin Cove, Alaska
POSITION STATEMENT: Testified as appointee.

TED SPRAKER, Appointee
to the Big Game Commercial Services Board
Soldotna, Alaska
POSITION STATEMENT: Testified as appointee.

BETTY JO SCHMITZ, Appointee
to the Big Game Commercial Services Board
North Pole, Alaska
POSITION STATEMENT: Testified as appointee.

COLIN BROWN, Appointee
to the Big Game Commercial Services Board
Galena, Alaska
POSITION STATEMENT: Testified as appointee.

RALPH ANDERSON, Appointee
to the Big Game Commercial Services Board
Dillingham, Alaska
POSITION STATEMENT: Testified as appointee.

ROY ASHENFELTER, Appointee
to the Big Game Commercial Services Board
Nome, Alaska
POSITION STATEMENT: Testified as appointee.

RICHARD ROHRER, Appointee
to the Big Game Commercial Services Board
Kodiak, Alaska
POSITION STATEMENT: Testified as appointee.

ACTION NARRATIVE

CO-CHAIR RALPH SAMUELS called the House Resources Standing Committee meeting to order at 1:07:43 PM. Representatives Samuels, Gatto, Crawford and Seaton were present at the call to

order. Representatives LeDoux, Ramras and Olson arrived while the meeting was in progress. Representative Elkins was excused.

CONFIRMATION HEARING(S)

Commissioner, Department of Natural Resources

CO-CHAIR SAMUELS announced that the first order of business would be the continuation of the confirmation hearing for Michael Menge for Commissioner of the Department of Natural Resources (DNR).

MICHAEL MENGE, Commissioner Appointee, Department of Natural Resources, said he is willing to answer questions.

REPRESENTATIVE CRAWFORD referred to Commissioner Menge's statement blaming the Japanese for the demise of the original gasline project, but what kept that project from going ahead was that producers wouldn't make a commitment to put gas into the marketplace.

COMMISSIONER MENGE said he used the Japanese to emphasize the point that they were contemplating signing a contract, and there was a euphoria amongst those involved after "a very lengthy permitting process" and "a contentious exercise with the Federal Energy Regulatory Commission (FERC)." He said, "The Japanese were contemplating signing a sales agreement or purchase agreement, and they didn't do it," and he didn't mean to imply that it was their fault. He said the fault was the economic picture. He said he was "not privy to Yukon Pacific's work with the oil companies as it related to sales contracts." He said no one was to blame; the value of the gas was so low that it would not support the cost of the infrastructure.

REPRESENTATIVE CRAWFORD said there were three competing proposals for the gasline last year, and it seems that the administration has dropped two in favor of the producer's proposal. "Wouldn't it be better for Alaska to have competing proposals?" he asked. He noted Huey Long and his fight with Standard Oil in the 1920s between producer-owned pipelines and independent ones. "Wouldn't it be better for us to have an independent-owned pipeline where the producers didn't control the means of transportation?"

COMMISSIONER MENGE said things have changed and now there is FERC who stands guard over the operations and rate setting of any interstate pipeline. He said FERC will deal with the

problems of excess influence, and he has a great deal of faith in that process. He added that there are firewalls of significant magnitude and an army of lawyers looking for a crack in that wall. The consequences of violating that relationship are dire, he noted. That is just the federal government, there is also the state watchdogs, and he told the committee that DNR will look at that issue very carefully to serve Alaska's interests.

REPRESENTATIVE CRAWFORD asked what Commissioner Menge would say to the question of Alaska's gas being stranded under today's economics. He said economic models have said that an Alaska gas pipeline project is economic under almost any scenario.

COMMISSIONER MENGE said that is an interesting question, and beware of a simple answer. Looked at in isolation, Alaska's gas may be considered as such, but there's over 6,000 [trillion cubic feet] of stranded gas around the world, "and Alaska competes with each one of those molecules. You cannot do an economic analysis that simply assumes that this is the best project in the world." He said the project has to be compared to other projects before doing an economic analysis. Keep it in the context of the world gas supply and competition, he stated.

[1:17:50 PM](#)

REPRESENTATIVE CRAWFORD said if Alaska's project makes more dollars per cubic foot than another project, but the other project has the ability to say, "Use it or lose it," then, "do we have to look at that as a factor, or shouldn't we just be looking at whether or not our project is profitable?"

COMMISSIONER MENGE said the Stranded Gas Act "told us" to put together a business deal. "As we proceed forward we will knit all of these things into what we believe is a reasonable offer. But the governor said many times it is not an offer at any price. We will not devalue the gas to compensate for other alternatives. We will put together a deal that makes economic sense for Alaska and for the companies." He said the state can move into a litigation mode if it is not successful. "We can entertain and proceed into covenants-to-produce, duty-to-develop, the panoply of options available to us under a litigation scenario, so we always have that option."

[1:19:53 PM](#)

REPRESENTATIVE GATTO asked if Alaska's definition of stranded gas applies to other countries, and if there is a glut of it.

COMMISSIONER MENGE said he has trouble understanding the meaning of stranded gas. The gas that is not being produced is competing with all other gas that is not being produced, and the world is awash in that gas, but it is being competed for in all the growing economies in the world. Each growth center creates demand, he said, and as each new project comes on, some gas becomes unstranded. He said, "Stranded or unstranded is just a function of whether you have accomplished the marketability of the product." There is a tremendous amount of stranded gas, but there is a growing market for it, he stated. "It is our job to try to strike the balance in a way to commercialize our gas in recognition of the growing value and to put it into production in a way that protects us over the long term."

[1:22:21 PM](#)

REPRESENTATIVE GATTO said if gas is at tidewater far from market, it will be liquefied and moved, and he asked if there was a worldwide glut of that kind of gas.

[1:23:07 PM](#)

COMMISSIONER MENGE said that is a fair statement right now, but he continued:

If you look 48 hours from now, we will have enhanced the capacity to deliver that product from tidewater—liquefying it, shipping it, degassing it, putting it into the gas system. We talk about an hourglass, it's tipping, and right now liquefied natural gas [LNG] is at a marked disadvantage from any gas that can be put in the pipeline. It is much more efficient just to pipeline it, and the distribution systems are in place, use existing infrastructure. But any casual perusal of the trade journals across the country, you will see one proposal after another for the commercialization of LNG, and all of that activity is manifesting itself in relaxed FERC rules for siting. [indecipherable] companies are investing billions of dollars in receiving terminals and ability to take the liquefied natural gas and make it more available on a demand basis.

COMMISSIONER MENGE said a tremendous amount of new technology is focused on making LNG more commercial. He said the state is in a race, and there is no question that a pipeline quality gas that Alaska can deliver can compete economically with all the LNG in the world. He said that advantage will go on for at least five years, but in 10 to 20 years the market will equalize across the globe. "At some point, the cost of LNG, the infrastructure to develop LNG, we'll be in a position to compete successfully with a regular pipeline."

[1:25:05 PM](#)

REPRESENTATIVE GATTO said that must be the reason to sell gaseous gas today.

COMMISSIONER MENGE said it is a good reason to move forward quickly in the development of a pipeline, "so that you can carve out your portion of the market, establish your deliverability, establish your customers and proceed forward. Once the pipeline is in place nothing will be able to compete for it as far as efficiency."

REPRESENTATIVE SEATON asked if gas is considered stranded just based on its profitability to a company, so if a company has another field where its gas was more profitable, could the company call the less profitable field stranded?

[1:26:13 PM](#)

COMMISSIONER MENGE said the economic viability of gas has many variables: the price the gas is sold for and the cost of getting it to market. "The gas that can be delivered to the burner tip for the least price is the gas that will be developed."

[1:28:29 PM](#)

REPRESENTATIVE SEATON said Alaska is sitting in the position of being told that our gas is stranded if a company can sell gas more profitably elsewhere, so all the cards are in the company's deck if they have other fields in the world.

COMMISSIONER MENGE said, "We have to deal with a punch list of cold hard realities," and when being negotiated, lease terms were not set and not based on production. "There is a duty to develop within the leases, which we, at some point in time, may choose to exercise, but until we do that, until we follow that litigation pathway, because the value of the commodity in place

is measured in the hundreds of billions of dollars, so it is a very high stakes poker game that we are talking about. Until we have to deal with the reality of the leases as currently written, so if there is another product somewhere that can be delivered cheaper, given the legal framework that we are working under, then that will be produced first. If we choose to exercise our options, which we have, we can always do that." He added that the governor said he is going to put together a business deal first, and if it doesn't happen, then other alternatives will be exercised.

[1:30:25 PM](#)

REPRESENTATIVE SEATON asked if the commissioner would agree to a contract that would not limit Alaska's available litigation strategies.

COMMISSIONER MENGE said he believes in a use-it-or-lose-it provision. He would generally favor that component in any kind of contract, "but it is always measured in light of the foundation of fact that we have to deal with." On the Beaufort Sea lease sale "we" shortened the lease terms in the core area from seven to five years for that reason, he said.

[1:32:09 PM](#)

REPRESENTATIVE SEATON asked, "Then you wouldn't favor contract provisions that would limit our litigation strategies that we have available to us now if production didn't go forward?"

COMMISSIONER MENGE said, "We have a responsibility as custodians of the resource to derive the maximum benefit possible for the state, and we should be ever mindful of making sure that those resources can be developed in the most expeditious fashion, and should always pay a great deal of attention to any contract or any lease that we get into and take those issues into consideration."

[1:32:51 PM](#)

REPRESENTATIVE SEATON asked how the commissioner thinks the soil and water conservation districts are functioning and if he supports their continuation.

COMMISSIONER MENGE said he has always been an advocate of soil and water conservation districts. He said these organizations can be as good or bad as the participants, and they can be

mischievous or beneficial. He added that he will spend quite a bit of time looking at them.

REPRESENTATIVE SEATON asked if he thinks they are working well.

[1:34:42 PM](#)

COMMISSIONER MENGE said his special assistant will report on it. He said he does not want to prejudge what is going on.

REPRESENTATIVE SEATON said they have been valuable in his community. He noted that the commissioner spoke of state and federal partnerships, but not about local involvement. He said that the Alaska Coastal Zone Management Program's recent revisions have had feedback that local involvement is very difficult. Representative Seaton said that the incorporation of enforceable policies into municipal ordinances means that those policies are no longer dealt with in the consistency review. He said developers will need to go to the municipalities, which goes against Alaska's streamlining movement.

[1:36:59 PM](#)

COMMISSIONER MENGE said he has been involved with coordination his whole career. He said there is always a balance between the local community's influence and the statewide issue. He said it is a natural and healthy tension, and the community deserves to have its influence, but to what extent, and when does it cross a line? He said before the revisions there was a question "as to the reach that [community influence] occurred." He said he is the loudest advocate of community participation and he is watching the new policies closely. It will all depend on the reach of that community influence whether it is a good or questionable thing, "and we're going to have to just test that as we go." He said the Kensington mine in Juneau has to go through a rigorous municipal permitting process, and "we will incorporate that into our large project process, so that all those voices work together." He said he doesn't see anything wrong in the system that is evolving. "It gives everyone a voice in the process," he said.

[1:39:45 PM](#)

REPRESENTATIVE GATTO asked if DNR could purchase agricultural rights or purchase agricultural land in the Matanuska-Susitna area because it is being diminished by subdivisions.

[1:40:42 PM](#)

COMMISSIONER MENGE said zoning regulations are a draconian approach to preserve agricultural lands, and Alaskans are reluctant to engage in zoning. He said it is difficult to deny old farmers the significant gain they can get from subdividing their land. He said he would like to strike a balance in order to preserve agricultural land by converting additional lands into agricultural lands. He added that once a parking lot goes over a carrot field, it will never be a carrot field again. He said he can facilitate "what we have and make sure we grow the agricultural base to the extent that we can." He suggested encouraging new ways to market farm products, but that "farmers and ranchers are rugged individuals and do not like to organize." He said he will help them help themselves.

[1:44:43 PM](#)

REPRESENTATIVE GATTO said the Department of Transportation & Public Facilities follows the no-net-loss of wetlands policy, and he asked if a similar policy would work for agricultural land.

COMMISSIONER MENGE said that could be legislated, but at least a third of his hair loss has been fighting the concept of no-net-loss of wetlands. He said it will be difficult to do "because of the human components we have to deal with." He said the covenants placed on lands would be very specific.

[1:47:10 PM](#)

CO-CHAIR SAMUELS asked him to discuss subsistence.

[1:47:58 PM](#)

COMMISSIONER MENGE said subsistence is a difficult issue and a reasonable solution has not been found. He said he has not spent time thinking about DNR's role in that issue. He said he will work on the issues before him, and not subsistence.

[1:48:42 PM](#)

REPRESENTATIVE SEATON said the commissioner spoke of Alaska getting a fair share for its resources, and he said the 160th or about 0.6 percent tax on mining on the extracted value of \$1.6 billion doesn't compare well with the taxation of oil and fish.

1:49:48 PM

COMMISSIONER MENGE said he strongly believes that Alaska deserves a fair share, and mining should be treated the same as other resources. He said most of it occurs on federal land, and "I think we would look at the value of the commodity, the cost associated with developing it, and once we had done those economic analyses, then I would be in a position to answer your question." He added, "We should not rush into this quickly." He said to look at what companies are investing verses what they are making. What seems like a simple solution may not be, he said, and "the tragedy of unattended consequences goes hand in hand with making rash decisions on things that are economically complex." He said he will work with Representative Seaton to determine what is fair, and he will support what is fair.

REPRESENTATIVE SEATON asked if analysis of profitability should be considered with fisheries. He said Alaska has a minimum three percent ex-vessel value tax and a five percent tax on the floating processors. The fishing industry has been in a tailspin for years, and net profits are near zero, and any fisherman would love to pay taxes based on net profits as mining companies do. "So are you saying that same structure of looking at cost versus profits should be used for all our resources or should that be just reserved for mines?" he asked.

COMMISSIONER MENGE said the "fishing industry is a very complicated issue." He said he believes "that any of the state's resources should be subjected to that kind of an in-depth analytical analysis" before determining the state's share.

1:54:16 PM

REPRESENTATIVE SEATON asked if Commissioner Menge would support agricultural leaseholders' ability to pay fair market value for their leased property, taking the land out of the agricultural designation.

COMMISSIONER MENGE said he needs to understand it more. He said lease terms and conditions define the value of the lease, and it might not be unreasonable for the state to clear the land and then lease it. The state might lease raw land and require the farmer to clear the land, "at which point they would have a significant investment in that lease and would also justly be entitled to compensation for their investment."

1:55:56 PM

REPRESENTATIVE SEATON repeated his question.

COMMISSIONER MENGE said he would not be against any proposal like that, but he would want to make sure the state's interests are considered.

[1:56:50 PM](#)

REPRESENTATIVE SEATON said there is warmer and warmer weather, and in Homer the lack of firefighting equipment almost created a tragedy last year.

COMMISSIONER MENGE said climate has changed and he hopes it is a "blip on the radar screen," but he won't make that assumption and supports changes. He said there are financial implications but human lives supersede those.

[1:58:40 PM](#)

REPRESENTATIVE SEATON moved to advance the name of Michael Menge as commissioner of DNR to the joint session for consideration. Hearing no objection, it was so ordered.

The committee took an at-ease from [1:59:04 PM](#) to [2:04:43 PM](#).

Big Game Commercial Services Board

CO-CHAIR SAMUELS announced that the final order of business would be confirmation hearings for seven appointees to the Big Game Commercial Services Board.

PAUL JOHNSON, Appointee and Chair of the Big Game Commercial Services Board, said a guide board was formed in the early 1970s and was sunset in 1995 until last year. He said the new board is composed of nine members represented by: two private landholders, one Board of Game member, two public members, two transporters, and two big game guides. The board is not yet full, but there is a wonderful set of people now on the board, he said. He told the committee that he has been a guide for 30 years, and now also owns a lodge. He sat through the original task force that created the board, and he was the chair of the first board. He said the new board had its first meeting in December.

MR. JOHNSON said the board duties are to promote the professionalism of big game guides and transporters through

contracts, a code of ethics and a testing program for guides. Committees were formed during the first meeting. The testing program is on hold until December because the board needs time to "pull things together."

[2:09:21 PM](#)

REPRESENTATIVE SEATON asked about the make up of the board.

[2:10:10 PM](#)

MR. JOHNSON listed the seven appointees and their positions on the board.

CO-CHAIR SAMUELS said most of the people are on line.

[2:11:29 PM](#)

REPRESENTATIVE LEDOUX asked why the board was allowed to sunset.

MR. JOHNSON said there are different opinions, and noted that re-instatement passed the legislative House unanimously, but one committee chair in the Senate held it so it couldn't go to a senate vote. "We had the votes in the Senate; there was no question," he stated.

[2:12:37 PM](#)

CO-CHAIR SAMUELS said a recent audit looked at the big game guiding business as a whole and suggested re-creating the board.

[2:13:26 PM](#)

MR. JOHNSON said the prior commercial service board had a very clean audit.

TED SPRAKER, Appointee, Soldotna, said he is from Wyoming and has been in Alaska for 33 years. He worked as a wildlife biologist for the Alaska Department of Fish & Game and was appointed to the Alaska Board of Game once he retired. He said the guiding industry has suffered from not having the guide board. The enthusiasm he has already seen on the new board shows him that it will make some needed changes including the creation of a code of ethics. He said he is on the transporter committee.

[2:17:02 PM](#)

BETTY JO SCHMITZ, Appointee, North Pole, said she worked as a missionary in some villages and later worked as a biological technician for the United States Fish and Wildlife Service (USFWS). She currently home-schools her children and is an instructor and team member of the Becoming an Outdoors Woman program. She is not a guide but she enjoys hunting and being outdoors. She is on the examination committee to ensure guides will be truly professional.

[2:19:00 PM](#)

REPRESENTATIVE SEATON said he appreciates the gender diversity, and hopes that the governor will consider women for the final two appointments.

[2:19:36 PM](#)

COLIN BROWN, Appointee, Galena, said he spent time in Anchorage as a commercial pilot and then moved to Galena to be an air taxi pilot. He worked for the USFWS as a pilot, and he trapped with dog teams. He opened his own air service about eight years ago and became concerned about the lack of ethics and professionalism in the transporter industry. He was excited by the renewing of the big game board and wants to bring ethics and professionalism back into the industry.

[2:22:20 PM](#)

RALPH ANDERSON, Appointee, Dillingham, said he is an Alaska Native and has degrees in English and political science. He said he worked 20 years in Barrow, and moved back to Dillingham eight years ago. Sport hunting and fishing are important to the economy of Alaska, especially in rural Alaska, he said. Income from the guiding and transporting industry has been helpful; however, there are complaints about trespassing, but "we" are taking "really good steps to address those." He stated that it is important to build cooperative relationships. He is the chair of the ethics committee, which made considerable progress at the last meeting.

ROY ASHENFELTER, Appointee, Nome, said he is the Vice Chair of the Western Arctic Caribou Herd Working Group. He is from Nome and attended college in Anchorage. He holds one of the public seats on the Big Game Commercial Services Board and is chair of the transporter committee. He mentioned issues in the Nenana region.

[2:27:35 PM](#)

RICHARD ROHRER, Appointee, Kodiak, said he grew up on a farm and in a hunting family and now is a master guide and holds one of the guide seats on the board. He said his wildlife viewing, sport fishing and hunting guide business on federal land in Kodiak provides his primary living. He said it was his turn to serve on the board and he is chair of the contract committee. He hopes to have, at the next meeting, proposed regulations so operators will be more accountable for the services they offer for the money they are paid. This includes how client money is handled, including refunds on deposits in the case of cancellations, he added.

[2:30:53 PM](#)

CO-CHAIR SAMUELS thanked all members and especially the public members.

[2:31:31 PM](#)

REPRESENTATIVE SEATON moved to advance the names of Paul Johnson, Ted Spraker, Betty Jo Schmitz, Colin Brown, Ralph Anderson, Roy Ashenfelter and Richard Rohrer, appointees to the Big Game Commercial Services Board, to the joint session for consideration. Hearing no objection, it was so ordered.

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at [2:32 PM](#).